

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BOROUGH OF EDGEWATER,

Plaintiff,

v.

WATERSIDE CONSTRUCTION, LLC; 38 COAH, LLC; DAIBES BROTHERS, INC.; NORTH RIVER MEWS ASSOCIATES, LLC; FRED A. DAIBES; TERMS ENVIRONMENTAL SERVICES, INC.; ALUMINUM COMPANY OF AMERICA; A.P. NEW JERSEY, INC.; JOHN DOES 1-100; and ABC CORPORATIONS 1-100,

Defendants,

and

ALCOA DOMESTIC, LLC, as successor in interest to A.P. NEW JERSEY, INC.,

Defendant/ Third-Party Plaintiff,

v.

COUNTY OF BERGEN and RIVER ROAD IMPROVEMENT PHASE II, INC.,

Third-Party Defendants,

and

COUNTY OF BERGEN,

Third-Party Defendant/ Fourth Party Plaintiff,

v.

NORTH RIVER MEWS ASSOCIATES, LLC,

Fourth Party Defendant.

Civil Action No.: 2:14-cv-05060

**COUNTY OF BERGEN'S
RESPONSE TO DEFENDANT
ARCONIC'S SUPPLEMENTAL
STATEMENT OF DISPUTED
MATERIAL FACTS PURSUANT
TO FED. R. CIV. P. 56**

Third Party Defendant/Fourth Party Plaintiff, County of Bergen (the “County”) respectfully submits the following Response to Defendant Arconic Inc.’s and Arconic Domestic, LLC’s (collectively, “Alcoa”)¹ Supplemental Statement of Disputed Material Facts pursuant to Local Rule 56.1(a), as further support of the County’s Motion for Summary Judgment:

1. Undisputed, subject to the additional proofs in this record that the MPAA was reformed and modified as implemented through the Environmental Indemnity Agreement (Pansulla Cert., Exh. E);² the Funding Agreement (Pansulla Cert., Exh. P); as confirmed through testimony of Alcoa’s Representative Kevin McKnight wherein he acknowledged multiple times that the MPAA was reformed and modified (Pansulla Cert., Exhs. N and O); and that Alcoa ultimately released the County from any further obligations in 2001. (Pansulla Cert., Exh. Q).

2. Undisputed, subject to the additional proofs in this record that the MPAA was reformed and modified as implemented through the Environmental Indemnity Agreement (Pansulla Cert., Exh. E); the Funding Agreement (Pansulla Cert., Exh. P); as confirmed through testimony of Alcoa’s Representative Kevin McKnight wherein he acknowledged multiple times that the MPAA was reformed and modified (Pansulla Cert., Exhs. N and O); and that Alcoa ultimately released the County from any further obligations in 2001. (Pansulla Cert., Exh. Q).

3. Undisputed, subject to the additional proofs in this record that the MPAA was reformed and modified as implemented through the Environmental Indemnity Agreement

¹ Alcoa was originally named in this lawsuit by the plaintiff as Aluminum Company of America (known as Alcoa, Inc.) and A.P. New Jersey, Inc. Alcoa Domestic, LLC was the successor-in-interest to A.P. New Jersey, Inc. Alcoa Inc. then became known as Arconic, Inc., while Alcoa Domestic, LLC became known as Arconic Domestic, LLC. It is our understanding that the Arconic entities are the current entities in this lawsuit and are referred to collectively herein as “Alcoa.”

² References to the “Pansulla Cert.” are to the accompanying Certification of Counsel, Robert J. Pansulla, Esq., with “Exh.” referring to the exhibits attached thereto.

(Pansulla Cert., Exh. E); the Funding Agreement (Pansulla Cert., Exh. P); as confirmed through testimony of Alcoa's Representative Kevin McKnight wherein he acknowledged multiple times that the MPAA was reformed and modified (Pansulla Cert., Exhs. N and O); and that Alcoa ultimately released the County from any further obligations in 2001. (Pansulla Cert., Exh. Q).

4. Undisputed, subject to the additional proofs in this record that the MPAA was reformed and modified as implemented through the Environmental Indemnity Agreement (Pansulla Cert., Exh. E); the Funding Agreement (Pansulla Cert., Exh. P); as confirmed through testimony of Alcoa's Representative Kevin McKnight wherein he acknowledged multiple times that the MPAA was reformed and modified (Pansulla Cert., Exhs. N and O); and that Alcoa ultimately released the County from any further obligations in 2001. (Pansulla Cert., Exh. Q).

Dated: September 11, 2020

**FINAZZO COSSOLINI O'LEARY
MEOLA & HAGER, LLC**
67 East Park Place, Suite 901
Morristown, NJ 07960
(973) 343-4960
*Attorneys for Third Party Defendant/
Fourth Party Plaintiff, County of Bergen*

BY: /s/ Robert J. Pansulla
ROBERT J. PANSULLA, ESQ.
ROBERT B. MEOLA, ESQ.
JONATHAN M. ZAGHA, ESQ.